

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

MICHIGAN LABORERS DISTRICT COUNCIL  
and LABORERS INTERNATIONAL  
UNION LOCAL 1098, AFL-CIO,

Plaintiffs,

v.

Case Number 03-10288-BC  
Honorable David M. Lawson

CHAMPAGNE AND MARX EXCAVATING,  
INCORPORATED,

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION FOR  
RECONSIDERATION, ADOPTING REPORT AND RECOMMENDATION,  
AND DISMISSING CASE WITHOUT PREJUDICE**

On September 13, 2005, this Court entered an order denying various motions the parties had filed as moot and dismissing the case because the Court received notice on July 29, 2005 that the plaintiffs no longer wished to pursue their objections to a report and recommendation dated November 17, 2003, and they were withdrawing their objections because the parties had reached a settlement. Thereafter, the defendant filed a motion stating that no settlement had been reached and seeking reconsideration of the of the September 13, 2005 order. On October 12, 2005, the Court directed the plaintiffs to respond to resolve the apparent discord.

Now before the Court is the plaintiffs' response. The plaintiffs agree that they unilaterally withdrew their objections to the report and recommendation, but insist there was no intent to mislead the Court by stating a settlement had been reached. The settlement to which the plaintiffs referred was actually a collective bargaining agreement the parties' reached on July 29, 2005. The Court will therefore grant the defendant's motion for reconsideration and accept the plaintiffs' representation

that they withdrew their objections to the report and recommendation.

Accordingly, it is **ORDERED** that the defendant's motion for reconsideration [dkt # 37] is **GRANTED**.

It is further **ORDERED** that the magistrate judge's report and recommendation is **ADOPTED** and the case is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: November 9, 2005

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 9, 2005.

s/Tracy A. Jacobs  
TRACY A. JACOBS